

ORDINANCE NO. 2004-07

AN ORDINANCE OF THE CITY OF SOMERSET, TEXAS, DENYING WEST TEXAS GAS, INC.'S REQUEST TO CHANGE RATES IN THIS MUNICIPALITY, AS A PART OF THE COMPANY'S PROPOSED RATE CHANGE FOR ALL ITS DISTRIBUTION CUSTOMERS STATEWIDE; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO WEST TEXAS GAS, INC.

WHEREAS, on or about March 29, 2004, West Texas Gas, Inc. (the "Company") filed with the City of Somerset ("City") a Statement of Intent to change gas utility rates in all municipalities served by the Company's gas utility distribution system in Texas, effective May 6, 2004; and

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company's Statement of Intent as it pertains to the distribution facilities located within the City, pursuant to TEXAS UTIL. CODE ANN §§ 102.001(b) and 103.001; and

WHEREAS, TEXAS UTIL. CODE ANN. § 103.022 provides that costs incurred by the City in ratemaking activities are to be reimbursed by the regulated utility; and

WHEREAS, on April 8, 2004, the City suspended the operation of the rates proposed by West Texas Gas, Inc., as allowed by the Gas Utility Regulatory Act (Texas Utilities Code §104.107); and

WHEREAS, West Texas Gas, Inc., has based its new rate structure and rates on costs to serve customers in what it has designated as the North and South Zones of its entire system and the City is participating with a coalition of cities served by the Company and affected by the Company's proposed system-wide rates, with said coalition being known as the WTG Coalition of Cities; and

WHEREAS, the WTG Coalition of Cities (the "WTG Cities") is participating in the pending Texas Railroad Commission (the "Commission") proceeding, GUD No. 9520, concerning the Company's proposed system-wide rates; and

WHEREAS, the WTG Cities and the Company reached a procedural agreement regarding the schedule for GUD No. 9520 that calls for abatement of the Commission proceedings until August 31, 2004, to allow ninety days for the WTG Cities to review the Company's rate request before further Commission proceedings, and also calls for each member of the WTG Cities to act expeditiously to deny the Company's rate request so that the city's action can be appealed to the Commission and consolidated with GUD No. 9520; and

WHEREAS, the Company has agreed that, during the pendency of the Company's rate request, the Company will make monthly reimbursement payments of ninety percent of the WTG Cities' costs incurred in reviewing the Company's rate request and participating in the

Commission proceedings, with the remaining ten percent to be paid upon approval of the costs by the Commission; and

WHEREAS, the WTG Cities and the Company jointly endorse the City's denial of the Company's rate application pending before the City; and

WHEREAS, counsel for the WTG Cities, upon review of the Company's filing and upon consultation with various consultants, recommends finding that the Company's proposal is unjustified and unreasonable;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSET, TEXAS:

SECTION 1. The Company's Statement of Intent to change gas utility rates, as part of the Company's statewide gas utility system, is found to be unreasonable because: (a) the Company's requested rate of return is excessive; (b) the basis for proposed regions within the Company's system has not been established; (c) the basis for the Company's accounting for acquisitions has not been established; (d) revenue requirements should be reduced rather than increased; and (c) the Company's filing should be denied pursuant to agreement with the Company; and is therefore denied in all respects.

SECTION 2. The costs incurred by the City in reviewing the Company's application, including attorneys' fees and expenses, shall be promptly reimbursed by the Company.

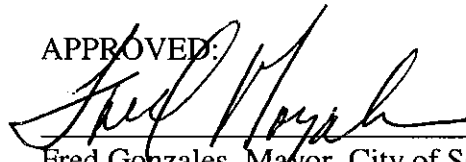
SECTION 3. This Ordinance shall become effective immediately upon and after its passage, as the law.

SECTION 4. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.


SECTION 5. A copy of this ordinance, constituting final action on the Company's application, be forwarded to the appropriate designated representative of the Company within 10 days as follows: J. J. King, Gas Marketing Manager for West Texas Gas, Inc., 211 N. Colorado, Midland, Texas 79701.

DULY PASSED and approved by the City Council of the City of Somerset, Texas, on this the 8th day of July, 2004.

APPROVED:


Fred Gonzales, Mayor, City of Somerset

ATTEST:


ELLEN HICKS, City Secretary